

JUDGE KEENAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

11 CIV 5757

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ANTONIA CHRISTINA BASILOTTA, a/k/a TONI BASIL,
an Individual

Plaintiff,

Civil Action No.:

-against-

DEFENDANT NO.1 - MASTER RECORDING entitled
"Word of mouth / [performed by] Toni Basil" US
Copyright Registration No. SR0000038729;

DEFENDANT NO.2 - MASTER RECORDING entitled
"Mickey / N. Chinn, M. Chapman; [performed by]
Toni Basil. Thief on the loose / T. Basil, G. Mathieson;
[performed by] Toni Basil" US Copyright
Registration No. SR0000041440;

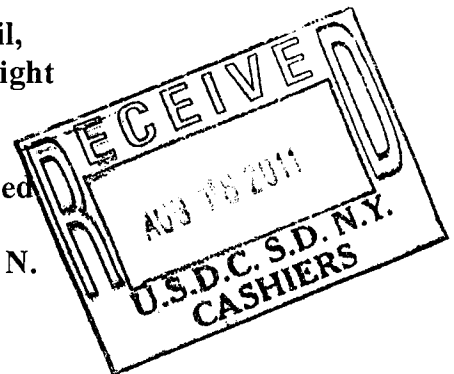
DEFENDANT NO.3 - MASTER RECORDING entitled
"Tony Basil / [performed by] Tony Basil" US Copyright
Registration No. SR0000052735;

DEFENDANT NO.4 - MASTER RECORDING entitled
"Mickey: Spanish version / N. Chinn, M. Chapman;
[performed by] Toni Basil. Thief on the loose / T. Basil,
G. Mathieson; [performed by] Toni Basil." US Copyright
Registration No. SR0000041439;

DEFENDANT NO.5 - MASTER RECORDING entitled
"Mickey: special club mix / N. Chinn, M. Chapman;
[performed by] Toni Basil. Mickey: Spanish version / N.
Chinn, M. Chapman; [performed by] Toni Basil" US
Copyright Registration No. SR0000041392

Defendants.
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VERIFIED
COMPLAINT
FOR
DECLARATORY
RELIEF IN REM



COMPLAINT

Plaintiff, ANTONIA CHRISTINA BASILOTTA (a/k/a "TONI BASIL"), brings this verified complaint and alleges as follows:

NATURE OF THE ACTION AND RELIEF SOUGHT

1. Plaintiff, TONI BASIL, files this *in rem* action seeking an order from the Court providing declaratory relief against *the res*, the above-captioned U.S. Copyrighted Master Recordings (collectively the "TONI BASIL MASTERS"), including Plaintiff's iconic, famous and world-renowned, Eighties cheerleading anthem, "Hey Mickey" (hereinafter "MICKEY") declaring clear title in Plaintiff based on a contractual reversion term.

JURISDICTION AND VENUE

2. This case arises under the United States Constitution and the laws of the United States and presents a federal question within this Court's jurisdiction under Article III of the United States Constitution and 28 U.S.C. § 1331. This Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), based on the location of the physical elements of the TONI BASIL MASTERS which are located in storage at Razor

& Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

THE PLAINTIFF

3. Plaintiff, TONI BASIL, is a resident of the state of California, county of Los Angeles. TONI BASIL is a recording artist and choreographer credited with her most famous work, “Hey Mickey”, which has been exploited and unlawfully licensed throughout the world over the last several decades.

THE PROPERTIES

4. MASTER RECORDING entitled “Word of mouth / [performed by] Toni Basil” was registered on September 27, 1982, in the U.S. Copyright office and assigned US Copyright Registration No. SR0000038729. The physical masters entitled “Word of mouth / [performed by] Toni Basil” are located in storage at Razor & Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

5. MASTER RECORDING entitled “Mickey / N. Chinn, M. Chapman; [performed by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson; [performed by] Toni Basil” was registered on August 13, 1982, in the U.S. Copyright office and assigned US Copyright Registration No. SR0000041440. The physical masters entitled “Mickey / N. Chinn, M. Chapman; [performed

by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson; [performed by] Toni Basil” are located in storage at Razor & Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

6. MASTER RECORDING entitled “Tony Basil / [performed by] Tony Basil” was registered on February 27, 1984, in the U.S. Copyright office and assigned US Copyright Registration No. SR0000052735. The physical masters entitled “Tony Basil / [performed by] Tony Basil” are located in storage at Razor & Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

7. MASTER RECORDING entitled “Mickey: Spanish version / N. Chinn, M. Chapman; [performed by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson; [performed by] Toni Basil” was registered on December 22, 1982, in the U.S. Copyright office and assigned US Copyright Registration No. SR0000041439. The physical masters “Mickey: Spanish version / N. Chinn, M. Chapman; [performed by] Toni Basil. Thief on the loose / T. Basil, G. Mathieson; [performed by] Toni Basil” are located in storage at Razor & Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

8. MASTER RECORDING entitled “Mickey: special club mix / N. Chinn, M. Chapman; [performed by] Toni Basil. Mickey: Spanish version / N. Chinn, M. Chapman; [performed by] Toni Basil” was registered on December 22, 1982, in the U.S. Copyright office and assigned US Copyright Registration No. SR0000041392. The physical masters entitled “Mickey: special club mix / N. Chinn, M. Chapman; [performed by] Toni Basil. Mickey: Spanish version / N. Chinn, M. Chapman; [performed by] Toni Basil” are located in storage at Razor & Tie Entertainment, L.L.C., 214 Sullivan Street, Suite 4A, New York, New York, 10012.

CHAIN OF TITLE

9. Radialchoice Ltd., a United Kingdom Company (Registered Number 1301180) and TONI BASIL entered into an Artiste Agreement (“Recording Contract”) dated August 8, 1982, which covered the rights to the properties described in paragraphs 4-8 herein. The Recording Contract is attached hereto as Exhibit 1.

10. Clause 18.1 of the Recording Contract states, “The Artiste expressly agrees that the Company may at any time transfer and assign this Agreement, and – or license all or any part of the Company’s rights hereunder, **to any solvent and financially responsible** person, firm or corporation which is a subsidiary of affiliate of Company or which has common ownership with

Company or to any person, firm or corporation which shall acquire all or substantially all of Company's assets, or to any other third party approved by Artiste, such approval not to be unreasonably withheld, and this Agreement shall inure to the benefit of the Company's permitted successors, licensees and assigns." [Emphasis added]

11. In the early 1980's a lawsuit was instigated in the United Kingdom by music producer Greg Mathieson, who was owed money by Radialchoice Ltd. for services in connection with the production of the TONI BASIL MASTERS. Mathieson was awarded a judgment against Radialchoice Ltd. and began collection efforts. In an effort to abscond with all of the recording proceeds, and avoid payment to Mathieson, the head of Radialchoice, Simon Lait, carried out a plan to fraudulently convey the TONI BASIL MASTERS to avoid payment of the judgment. (See Letter of Advisement dated November 21, 1983 attached hereto as Exhibit 2)

12. On December 5, 1983, Radialchoice Ltd., transferred title to the TONI BASIL MASTERS to Ultratape Limited, a United Kingdom Company (Registered Number 1773227) that later changed its name to Alarum Limited (same company number). TONI BASIL never agreed to this transfer. (See Exhibit 3)

13. It is apparent from the involuntary dissolution of Ultratape/Alarum Limited that it was **not a solvent and financially responsible company**. Ultratape/Alarum Limited failed to pay debts and royalties due under the Recording Agreement and was involuntarily dissolved on March 31, 1987. (See Exhibit 4)

14. The TONI BASIL MASTERS are all registered with the U.S. Copyright Office by Radialchoice Ltd., (see paragraphs 4-8 above and incorporated here.) Although Radialchoice purported to transfer to Ultratape/Alarum all assets on December 5, 1983, one of the U.S. Copyright registrations (more fully described in paragraph 6 above) was obtained by Radialchoice on February 27, 1984, when it no longer had ownership, further evidencing a pattern of fraud and misappropriation.

15. Provision 18.2(a) of the Recording Contract states, "This agreement shall *automatically* terminate in the event of the Company going into liquidation (other than a voluntary liquidation for the purpose of reconstruction or amalgamation which in no way diminishes the rights, entitlements or privileges of Artiste hereunder) whereupon each and all rights vested in the Company hereunder shall *automatically and without necessity of any action of any kind irrevocably and totally revert to Artiste.*" [Emphasis added]

16. Unknown to Plaintiff, Radialchoice Ltd was forced into liquidation, dissolving on June 14, 1988. Annexed hereto as Exhibit 5 are documents recently acquired by Plaintiff's Counsel, F. Edie Mermelstein, which includes the London, England's High Court of Justice "Order to Wind Up Compulsorily" of Radialchoice Limited (Registered Number 1301180). This Order, directed at Radialchoice Limited, as well as the corresponding documents, also included in Exhibit 5, conclusively prove that Radialchoice Limited dissolved involuntarily on June 14, 1988, thereby triggering Clause 18.2(a) of the Recording Contract.

17. Ultratape/Alarum, was **not a solvent and financially responsible company**, (Registered Number 1773227) as evidenced by the fact that it was involuntarily dissolved on March 31, 1987, also triggering Provision 18.2(a) of the Recording Contract, and automatically and without necessity of any action of any kind irrevocably and totally reverted title to TONI BASIL. (See Exhibit 4).

18. TONI BASIL is the rightful owner of the TONI BASIL MASTERS according to the contract terms, which do not require **any action of any kind** to facilitate total irrevocable reversion.

19. TONI BASIL has demanded return of the TONI BASIL MASTERS from Simon Lait, former authorized representative of Radialchoice Ltd. and signor on the Recording Contract. TONI BASIL has also demanded the return of the TONI BASIL MASTERS from alleged licensee Razor & Tie. Through correspondence with TONI BASIL's legal representation, Simon Lait has attempted to conceal the chain of title and falsely asserted ownership over the properties. Most recently, on July 6, 2010, Simon Lait, former authorized representative of Radialchoice Ltd., presented, for the first time, a purported copy of an assignment and sale agreement dated December 5th, 1983, between Radialchoice Limited and Ultratape Limited. (See Exhibit 3). Lait also produced a copy of Ultratape's subsequent change of name certificate to Alarum. With these documents, Lait represented to TONI BASIL that the recordings were transferred in a way that did not trigger the automatic reversion contained in the operative contract. However, Lait failed to also disclose the fact that Ultratape/Alarum was also involuntarily dissolved and financially irresponsible.

20. Based on the discovery of the insolvency and lack of financial responsibility of both Radialchoice Ltd. and Ultratape/Alarum, TONI BASIL asserts her contractual right of reversion of the BASIL MASTER RECORDINGS.

CLAIM FOR RELIEF

(DECLARATORY JUDGMENT)

21. TONI BASIL realleges and incorporates by this reference the allegations of paragraphs 1-20.

22. An actual, present and judiciable controversy exists regarding the rights to the TONI BASIL MASTERS, as evidenced by the fact that TONI BASIL asserts an exclusive and full interest in the TONI BASIL MASTERS, while Razor & Tie—through Lait—also claims to hold exclusive title. On TONI BASIL’S information and belief, Razor & Tie have physical possession of the TONI BASIL MASTERS, and Radialchoice is the recorded titleholder in the US Copyright Office. TONI BASIL has already given sufficient notice to Lait (See Exhibit 6) and Razor & Tie (See Exhibit 7) that she holds title to the TONI BASIL MASTERS, and Lait, in his capacity as authorized representative of Razor & Tie, has rejected TONI BASIL’S rightful claim to the TONI BASIL MASTERS, and has refused to cooperate with her regarding this matter. Thus, TONI BASIL seeks a judicial declaration that she holds the exclusive and full rights to the TONI BASIL MASTERS—not just as judged against the parties named in this complaint, but also as judged against the world.

23. This controversy is ripe for judicial decision, and declaratory relief is necessary and appropriate so that the parties may know the legal obligations that govern their present and future conduct.

PRAYER FOR RELIEF

Wherefore, Plaintiff TONI BASIL seeks relief from this Court as follows:

1. Issue a judicial declaration that Plaintiff TONI BASIL holds clear title to the TONI BASIL MASTERS; and
2. Award such other and further relief as is just and proper.

Dated: August 17, 2011

Yours, etc.

Zraick, Nahas & Rich

By: 

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Attorneys for Plaintiff Antonia
Christina Basilotta a/k/a Toni Basil

VERIFICATION


State of California)
) ss.:
County of Los Angeles)

I, Antonia Christina Basilotta (a/k/a Toni Basil), declare:

1. I am a citizen of the United States and a resident of Los Angeles, California and the Plaintiff in the foregoing complaint.
2. I have read the verified complaint and the allegations contained therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the above is true and correct.

Executed On: August 15 2011



Antonia Christina Basilotta a/k/a
Toni Basil

Sworn to before me this 15
Day of August 2011



Notary Public

